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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,332	04/16/2004	Norbert Erhard	028972.53933US	7895

23911 7590 07/05/2006

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EXAMINER
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MCGRAW, TREVOR EDWIN

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/825,332

**Applicant(s)**

ERHARD ET AL.

**Examiner**

Trevor McGraw

**Art Unit**

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-17 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

**Rejection under 35 USC § 112, First Paragraph**

Examiner acknowledges applicant's references of the "clamping device" from specification as disclosed in paragraph 9. Examiner withdraws rejection held under 35 USC 112, first paragraph.

**Rejection under 35 USC § 112, Second Paragraph**

Examiner acknowledges applicant's cancellation of claims 1-9 and 18. Applicant has also amended claim 17 by deleting the term "chamfered terminal area" as a result, Examiner withdraws rejection held under 35 USC 112, second paragraph.

***Drawings***

**Objection under 37 CFR 1.83(a)**

The drawings were received on 04/16/2004. Examiner withdraws drawing objection under 37 C.F.R. 1.83(a) as Applicant amends the claims to "tapered surfaces" and shows Examiner where each elements location in question is located in the specification.

**Claim Objections**

Examiner withdraws claim objections as applicant has cancelled claim 1 and has amended claims 10, 12, 14, 17 and 19.

**Rejection under Double Patenting**

Applicant's arguments filed 02/16/2006 have been fully considered but they are not persuasive. Examiner acknowledges Applicant's cancellation of claim 1 in the present application as well as the cancellation of claim 6 in application 10/825,621. However, the cancellation of claim 1 in the present application and claim 6 of application 10/825,621 does not overcome the double patenting rejection. Furthermore in view of applicant's amendment, Examiner takes the following position:

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 10 is provisionally rejected on the ground of nonstatutory double patenting over claim 11 of copending Application No. 10/825621. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: the claimed spray heads in both applications are for spraying media or spray agents into mold casts for a casting machine which inherently has an arm for which the spray nozzles are arranged thereto with modular units that are joined together to create passages for the media to travel through that are also affixed to spray plates or spray bars or arms or blocks so that the spray of the media can be controlled. Furthermore, Applicants assertion that no such "coupling element" is disclosed or suggested by co-pending Application No. 10/825,621 is questioned by the Examiner in view of the claims and specification disclosure of Application No. 10/825,621. In examination of especially the claims of 10/825,621 Examiner notes that applicant makes reference to "connecting pieces", "connecting passage(s)", "connecting blocks" and "connecting plate(s)" numerous times throughout the claims which affirmatively suggests a "coupling element" (Also in paragraphs 11, 26 and 27 of specification). Examiner further makes note for the record that these elements: "connecting pieces", "connecting passage(s)", "connecting blocks" and "connecting plate(s)" must have a way for clamping or attaching these elements together.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other

copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wollin (US Patent 5,916,367).

In regard to claims 10-17 and 19 Wollin (5,916,367) teaches a spray head (1) for a spraying tool with a plurality of modular spray units (16) each having an end and a plurality of passages (19) where the end of each spray unit (16) has a chamber (Figure 2). Wollin also teaches a plurality of cylindrical coupling elements (Figure 2) that have two recesses having a tapered surface and where the coupling elements communicate with the passages and reach into both parallel chambers at the end of the spray units where each coupling element has a passage and a recess having a tapered surface for engaging with a clamp or conically arranged screw that join the spray units together. Wollin further teaches two spray passages that are coaxial with the two chambers at the end of the spray unit to make at least a third passage and at least one of the spray units having an angled piece adapted to connect to another spray unit.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

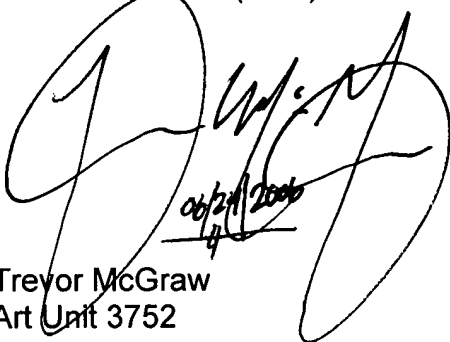
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trevor McGraw whose telephone number is (571) 272-7375. The examiner can normally be reached on Monday-Friday (2nd & 4th Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

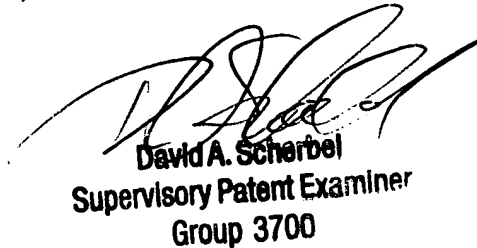
Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Trevor McGraw  
Art Unit 3752

TEM



David A. Scherbel  
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